

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TRACY ELLIS :
: :
v. :
: :
HARTFORD COMPREHENSIVE EMPLOYEE :
BENEFITS SERV. CO. and : NO. 02-CV-3623
DELAWARE MGMT. HOLDING INC. STD :
EMPLOYEE BENEFIT PLAN :
:

ORDER

AND NOW, this _____ day of October, 2002, upon
consideration of Defendant Delaware Management Holding
Incorporated STD Employee Benefit Plan's Motion to Strike
Plaintiff's Demand for a Trial by Jury (Docket #4) and
Plaintiff's Opposition thereto, as well as Defendant Hartford
Comprehensive Employee Benefits Services' Motion to Strike
Plaintiff's Demand for a Trial by Jury, included in its Motion to
Dismiss the Plaintiff's Complaint (Docket #6), and Plaintiff's
response to Hartford's motion in its Opposition to Defendant
Hartford's Motion to Dismiss, it is hereby Ordered that said
motions are Granted and the plaintiff's jury demand is stricken.

Because this court has dismissed the bad faith claim, only the claims brought under ERISA § 502(a), 29 U.S.C. § 1132(a), remain against the defendants. Since a claim under ERISA § 502(a) is equitable in nature, the plaintiff is not entitled to a jury trial. Pane v. RCA Corp., 868 F.2d 631, 637 (3d Cir. 1989); see also Rallis v. Trans World Music Corp., 93-CV-6100, 1994 U.S. Dist. LEXIS 3514 at *13 (E.D. Pa. 1994) (following Pane to strike a jury demand for a claim brought under ERISA § 502(a)(1)(B)).

The plaintiff agrees with this principle. Plaintiff's Memorandum of Law in Opposition to Defendant's Motion to Strike Demand for Jury Trial at 1 ("[B]ecause ERISA provides only equitable remedies, jury trial is not permitted. . . . Plaintiff does not disagree with [defendant's] proposition with regards to the adjudication of ERISA.")

BY THE COURT:

MARY A. MC LAUGHLIN, J.